



January 8, 2015

FILED VIA CM/ECF

Honorable Charles R. Breyer
United States District Judge
United States District Court
for the Northern District of California
Phillip Burton Federal Building
450 Golden Gate Avenue
San Francisco, CA 94102

**RE: IN RE: VOLKSWAGEN "CLEAN DIESEL" MARKETING, SALES
PRACTICES, AND PRODUCTS LIABILITY LITIGATION, MDL NO.
2672 CRB (JSC)**

Dear Judge Breyer:

Pursuant to the Court's Order dated December 22, 2015 (Doc. 336), David J. Hodge of Morris, King & Hodge, P.C., respectfully submits this application for appointment to serve as a member of the Plaintiffs' Steering Committee representing automobile dealers. In support of this application, the undersigned states that his ability to work cooperatively with Lead Counsel, his experience serving as Class Counsel in class actions and serving in various capacities in other MDLs, his unique status representing a geographically diverse group of automobile dealers asserting Lanham Act claims against Volkswagen and his willingness to devote the time and resources necessary to this important litigation, warrants appointment.

**I. DAVID J. HODGE SATISFIES THE REQUIREMENTS TO SERVE ON
THE PLAINTIFFS' STEERING COMMITTEE**

David J. Hodge (the "Applicant") is counsel of record in the *Carriage Chevrolet, Inc. v. Volkswagen of America Group, Inc., et al.* action filed on December 23, 2015 and pending in the United States District Court for the Eastern District of Tennessee in Case No.: 4:15-CV-00080-CLC-CHS. Conditional Transfer Orders were entered by the JPML on January 5, 2016, and this action is awaiting transfer to this Court on January 12, 2016. I and my law firm of Morris, King & Hodge P.C. have an extensive track record litigating complex litigation throughout the United States. Further, I enjoy an outstanding working relationship with many of the attorneys who have indicated that they will seek appointment to serve in leadership positions in this MDL.

**1. Professional Experience in Similar Complex Litigation and MDL
experience**

I have significant complex litigation and MDL experience. Currently, I serve as Co-Chair of the Settlement Committee for the Subscriber Class *In re: Blue Cross Blue Shield Antitrust Litigation*, MDL No. 2406 (N.D. Ala.). Previously, the undersigned was involved in *In Re: Total Body Formula Products Liability Litigation*, MDL No. 1985 (N.D. Ala.).

I have served as lead counsel in complex cases specifically involving diesel engine emission issues. In *Phillip O. Cooper and STI, Inc. v. Volvo Group North America Inc.*, CV 3:10-cv-01495- JEO (N.D. Ala.), I served as lead counsel representing a trucking company in a lawsuit against the product manufacturer, Volvo, regarding issues the company experienced with its fleet of Volvo diesel trucks after Volvo utilized new technologies in an effort to comply with new emissions standards.

Similarly, I obtained an \$11,000,000 fraud verdict against Cummins, Inc. on behalf of a logging company regarding a Cummins engine featuring new emission technology. *Chapman v. Cummins, Inc.*, CV-06-11 (Hale Co. Cir. Ct., Ala.).

I and my law firm have served as class counsel in several complex cases. See *Kettell v. Bill Heard Enterprises, Inc. et al*, US Bankruptcy Court for the Northern District of Alabama, Adversary Case No. 08-80153; *Carla Jean Andrews, et al. v. The Colbert County-Northwest Alabama Health Care Authority, et al.* in the Circuit Court of Colbert County, Alabama, Case No. CV07-154. I also currently serve as lead counsel for a putative class in *Robert Norris, et al. v. Global Notary, Inc. (CA), et al.* In the U.S. District Court for the Northern District of Alabama; Northeastern Division; Case No. 5:11-CV-017215-IPJ.

I have litigated complex cases nationwide and has previously litigated in the Northern District of California. In *Scott Booth, et al v. Quantum3D, Inc.*, C04-5376-EMC, (N.D. CA.), I represented shareholders regarding reverse stock option rights.

In each of the above cases, I have competently performed all necessary tasks assigned to me. Further background information about myself can be found in my resume (enclosed as Exhibit "A").

2. Names and Contact Information for Judges

The table below contains contact information for the Judges referenced above where I appeared as Lead Counsel or on a substantive committee are:

MDL	Judge	Address	Phone	Email
<i>In re: Blue Cross Blue Shield Antitrust Litigation</i> , MDL No. 2406 (N.D. Ala.)	Honorable R. David Proctor	U.S. District Court for the Northern District of Alabama Hugo L. Black Courthouse 1729 Fifth Avenue North Birmingham, AL 35203	(205) 278-1980	proctor_chambers@alnd.uscourts.gov

<i>Phillip Cooper v. Volvo Group North America, Inc. d/b/a Volvo Trucks North America, Inc., et al.</i>	Honorable John E. Ott	U.S. District Court for the Northern District of Alabama Hugo L. Black Courthouse 1729 Fifth Avenue, North Birmingham, AL 35203	(205) 278-1920	Ott_chambers@alnd.uscourts.gov
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3. Willingness and ability to immediately commit to a time consuming process.

I am willing and available to immediately commit the necessary time and resources to this litigation with a complete understanding of the demands that will be placed upon him if selected by the Court to serve on the Steering Committee.

4. Willingness and ability to work cooperatively with others

The undersigned has a nationwide practice and regularly litigates cases with associated counsel or firms. For years, the undersigned's firm has worked closely with other firms in complex litigation. This experience should assist in building consensus in prosecution of this litigation.

5. Access to sufficient resources to advance the litigation in a timely manner

I am my law firm are capable providing financial and litigation support.

6,7 & 8. Appointment to Serve on the Plaintiffs' Steering Committee; Categories of Plaintiffs I seek to Represent and Other Considerations

I respectfully request appointment to serve on the Steering Committee representing competing automobile dealers who have filed Lanham Act claims as well as state law claims; however, I would feel privileged to serve in whatever role or capacity the Court deems appropriate.

Respectfully submitted,
MORRIS, KING & HODGE, P.C.



David J. Hodge

Enclosures: as stated above